

DRAFT

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Applicant's representative, Mr. Timothy Worrall on October ??, 2011.

The application has been amended as follows. The claims have been amended as follows. Claims 1-13, 15-21, 23-50 and 52-55 remain as shown in the amended claim set filed on August 18, 2011. Of these claims, claims 1-13, 16-17, 21, 24-32, 35, 42, 44, 45, 52 and 54 have been canceled. Claims 14, 22 and 51 have been amended as shown below.

14. (currently amended) A soft gelatin capsule, comprising coenzyme Q-10 solubilized in limonene to form a solution, wherein the amount of coenzyme Q-10 in said solution is about 15 percent up to about 60 percent coenzyme Q-10 by weight, with the proviso that the coenzyme Q-10 solubilized in the limonene is not in an emulsion, suspension, or elixir.

22. (currently amended) A packaged nutraceutical formulation comprising:
(a) coenzyme Q-10 and a sufficient quantity of limonene suitable to solubilize said coenzyme Q-10 to form a solution, wherein the amount of coenzyme Q-10 in said solution is about 15 percent up to about 60 percent coenzyme Q-10 by weight, with the proviso that the coenzyme Q-10 solubilized in the limonene is not in an emulsion, suspension, or elixir, and wherein said formulation is encapsulated in a gelatin capsule; and

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(b) instructions for the use thereof.

51. (currently amended) The packaged nutraceutical formulation of claim 48, wherein the solution further comprises a tocopherol.

The following is an examiner's statement of reasons for allowance. The obviousness rejections discussed in copending Application No. 10/953328 were reversed by the BPAI decision mailed on May 11, 2011. The obviousness rejections in the copending application are similar to the obviousness rejections in the instant application. That is, the instant claims were considered to be an obvious modification of the same prior art teachings, the disclosures of Soft Gel Technologies (EP 888774) and Garti et al. (US 2003/0232095 A1). In view of the BPAI decision in the copending case, the obviousness rejections in the instant case were withdrawn. The obviousness-type double patent rejections discussed in the Office action of July 6, 2011 were overcome by Applicant's Terminal Disclaimer of September 20, 2011.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROSANNE KOSSON whose telephone number is (571)272-2923. The examiner can normally be reached on Mon., Thurs., Fri., 8:30-6:00, Tues., 8:30-2:00, Wed. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rosanne Kosson/
Primary Examiner, Art Unit 1657
2011-09-30